

Notice of Allowability

Application No.

09/628,569

Applicant(s)

HABER, JEFF

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04 April 2005 Amendment.
2. ☒ The allowed claim(s) is/are 1-20.
3. ☒ The drawings filed on 31 July 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

7. Applicant's April 4, 2005 REMARKS have been reviewed. Applicant's counsel's statement regarding the February 22, 2005 Interview is not complete. Another USPTO person, Mr. Vincent Millin, SPE AU 3624, was present during the interview. The presence of Mr. Millin was conveyed to Mr. Carr on numerous occasions prior to the beginning of the February 22, 2005 Interview. Further, Mr. Millin openly participated in the Interview.

Applicant's Affidavit received April 4, 2005 has been reviewed. The Affidavit is not convincing with regards to overcoming the filing date of Collins-Rector et al., 6,188,398. First, paragraph 7 of the Affidavit recites "By the end of June, 1999, I had a fully developed and working model of the interactive website designed . . ." This statement establishes a date after the June 2, 1999 filing date of Collins-Rector. Thus, it does overcome the filing date of Collins-Rector. The previous 6 paragraphs of the Affidavit do not establish a reduction to practice prior to Collins-Rector's filing date. Regarding paragraphs 4 & 5 of the April 4, 2005 Affidavit, no publication to the public is culled from these statements, given the Confidentiality Non-Disclosure Agreement between CBS and Mr. Katz, included with the April 4, 2005 Affidavit.

8. Applicant's April 4, 2005 REMARKS regarding the appropriateness of the February 4, 2005 Final Rejection have been reviewed. Applicant's April 4, 2005 REMARKS are clear as to providing a line of demarcation over the Collins-Rector and Kaman, US 6,229,541, rejection used in the February 4, 2005 Final Rejection. Applicant's April 4, 2005 REMARKS are convincing and provide proper reasoning for the allowance of the present Application.



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Primary Examiner
Art Unit: 3627
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